

DISTRICT V ADVISORY BOARD
MINUTES
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October 6, 2003
7:00 p.m.

Auburn Hills Golf Course Clubhouse
443 S. 135th West

Seven (7) District Advisory Board Members including two (2) youth members attended the District V Advisory Board meeting. Eight (8) City Staff were present and approximately 15 members of the public of which seven signed the signup sheet.

Members Present

Bob Bulman
David Dennis
Maurice Ediger
Andy Johnson
John Marker
DeAnn Sullivan
Steve Winslow
Jordan Hudson
Matt Schippers
Council Member Bob Martz

Staff Present

Donna Goltry, Planning
Jack Brown, Environmental Health
Officer A.L. Boden, Police
Officer G.A. Birdwell, Police
Officer Dave Wertz, Police
Dana Brown, City Manager's Office

Members Absent

Dave Almes
Sean Cash
Fran Hoggatt
Teresa Schmidt
Jonathan Brooks

Guests

Listed on p. 6

ORDER OF BUSINESS

Call to Order

Council Member Bob Martz called the meeting to order at 7:15 p.m. and welcomed the public. He explained the role of the District Advisory Board as advisory to him in his elected position, City Council Member of District V. He invited comment from the public at the designated point in the review process but asked that appropriate conduct be followed to provide attention from all for the person speaking.

Approval of Minutes and Agenda

The minutes for September 8, 2003 were corrected to show Bob Bulman absent for that meeting. The Agenda was approved as presented.

Public Agenda

This portion of the agenda provides an opportunity for citizens to present issues that are not part of the regular agenda for the meeting.

No items were presented.

Planning Agenda

CUP2003-00048 & ZON2003-00044

Donna Goltry, Planning, began by noting that the two cases being presented at the meeting were directly across from one another—a rare occurrence. She first presented information on the request for a zone change from "SF-5" Single-family to "LC" Limited Commercial for a 10-acre tract on the southeast corner of 37th N & Tyler Road (assoc w/CUP2003-00048). Another part of the request includes the creation of DP-267 Tyler Landing, (assoc. with ZON2003-00044) generally located on the southeast corner of 37th St N and Tyler Road. presented the request to create DP-267 Tyler's Landing Commercial CUP, a 10+ acre development with seven parcels for commercial use. Goltry stated that the staff recommends that general provisions be added including landscaping & landscape buffers and that uses be restricted to those for Limited Commercial. The recommendations are made to cause the commercial development to be more compatible to neighborhood use due to the planned construction of homes directly adjacent to the development. Other conditions/limits also requested included no drive-through restaurants, maximum building coverage & floor space, signage, and, metal facades. She noted that the Far West Plan did not apply to this area.

Terry Smythe, Baughman Engineering, agent for the applicant, spoke saying that the property owner had not had time to thorough review the staff report but was initially opposed to several conditions including restriction of LC uses; signage limitation, asking for allowance of City's sign code; façade requirements, requesting façade on front only; and, building height restriction, requesting 45 ft. instead. Smythe said the residential area would be developed first.

DAB Members asked staff to respond to these requests. **Goltry** noted the following:

- If a larger sign is desired then the request should be for LC, Limited Commercial, instead of NR, Neighborhood Retail.
- The landscaping condition of the Far West Plan is requested because the adjacent area is residential.
- The landscaping palette is requested to keep with the theme at New Market Square.
- Façade for all sides of the building is uniform with most CUP cases.
- Height of the building limited to 35-feet is standard.

Council Member Martz opened the discussion to members of the public but no comments or questions were asked.

DAB Members asked for clarification about no drive-through restaurants to which **Smythe** said staff has recommended this restriction but the applicant would like consideration for mitigating factors such as the landscape ordinance & setback, and allowance to comply with City code with the exception of the corner parcel. **DAB Members** inquired if noise from ordering at a drive-through would be a disturbance to the residential area to which **Goltry** said this condition typically generates many complaints. **DAB Members** asked about increasing the buffer between the retail area and the residents, and asked Smythe to confirm that the residential area would be built prior to the retail area; **Smythe** confirmed that this was the plan.

DAB Members asked additional questions about restrictions for different parcels, set-backs, facades for metal buildings, traffic impact & access points, especially with the Maize school planned across the street & the future plan for it to become a high school. Another question pertained to whether the Big Slew is provided for and whether sidewalks would be built on 37th Street.

The **Board** expressed concern about the number of issues that had not yet been resolved prior to presentation to DAB V. **Smythe** said that this was due to the recent receipt of the Staff Report, leaving no time to negotiate. He said the signage and usage restrictions were really the only issues. **Board Members** said it was premature for the DAB to be considering this request as the planner and the agent or applicant had not worked out an agreement on conditions. **Johnson** moved that the case be deferred and re-presented when the majority of these issues have been resolved. Motion passed 8:0.

Bulman stated that he would not support building a visible metal building.

Action: Recommended by a vote of 8:0 to defer the case until the next meeting in November.

ZON2003-00046

Goltry, Planning Department, also presented the related request on the NE corner across the road from the previous subject property. She said the request is to change the zoning from "SF-5" to "TF-3" and "LC", generally located on the northeast corner of Tyler Road and 37th St N. The request is to change the area from "SF-5" Single-family Residential to "TF-3" Two-family Residential for 23 acres and "LC" Limited Commercial for 3.6 acres. The requested "LC" is for three commercial parcels that are approximately one acre in size. The "TF-3" is for 34 duplex lots.

Goltry said that eight conditions were recommended for a protective overlay. Goltry noted a correction needed in the staff report to change the recommendation to "approve," not deny, as stated. The recommendation to approve is also subject to platting within one year. A residential area is proposed for the area north of the subject property. Most of the conditions are recommended to comply with the close proximity of a neighborhood area including transportation, road paving, setbacks, signage, light poles, and landscaping. Goltry reviewed the Staff Report in detail, explaining the recommendations from staff on the transportation requirement, paving, setbacks, signage, light poles, and landscaping.

Rob Hartman, Professional Engineering Consultants & agent for the applicant, spoke saying that LC Zoning is requested. He said the developer is willing to adhere to the protective overlay restrictions of "NR," Neighborhood Retail with the exception of restricting a commercial use to 2,000 square feet and a drive-through within 100 feet of the residential area. Hartman said the applicant would like 8,000 square feet allowed through the use of two parcels if a nicer, sit-down restaurant or a clothing store is interested in locating in the development. He also said the applicant is willing to build a buffer wall to help reduce noise from a drive-through within less than 100 feet of residential area. The applicant also agree to comply with code on outdoors lighting, build no metal buildings, and construct access points according to the City policy. Hartman noted that all area west of the property is under the jurisdiction of the City of Maize.

DAB Members asked questions related to existing drainage issues in the area and noted their concern about how construction might impact it. They also asked about appropriate size allowance for a larger restaurant or store, and supported the need to develop the commercial area as a good neighbor to the residential area. The Board supported the applicant's agreement to the NR restrictions applied to the LC zoning.

Council Member Martz opened the discussion to members of the public but no comments or questions were asked.

Dennis (Marker) moved to recommend acceptance of the proposal by the agent to support Limited Commercial with Neighborhood Retail restrictions and recommended the conditions in the staff report.

Action: The Board voted 8:0 to support the Planning Department recommendation to approve the request with the conditions listed in the staff report.

Staff Presentations

Community Police Report

Police were called from the meeting before their agenda item was called. No report given.

Action: No action needed.

Massage Ordinance Revision

Jack Brown, Environmental Health, presented proposed changes to the City's Massage Ordinance regulating massage therapists. He explained that the City's code regulating massage businesses dates back to 1978 in an effort to control prostitution. The code is not currently enforced due to its lack of application to the present day massage business. Kansas does not license or regulate the practice of massage therapists. But through requests in 2002 from the Central Kansas Massage Therapy Association, Departments of Environmental Health and Law worked with the therapists through a public-private effort to shift the scope from prohibition of unlawful activity now addressed as crimes to appropriate regulation of a legitimate health care practice. The main components of the revised licensing include removing outdated language and requirements, and adding education and liability insurance requirements. Proposed license fees include a business license at \$150 and therapist permit fees at \$50 (with \$25 annual renewal).

DAB Members asked questions about the licensing process; business locations; pertinence to County or other states; and, availability of approved schools.

Council Member Martz asked for questions or comments from the public. Several members of the public were practicing therapists who agreed with the need for revisions and noted that most of the 200 therapists in the City had provided input into the updating process. The President of the **Central Kansas Massage Therapy Association, Lee Luckingbill**, stated that the education and continuing education requirements were especially important. Other public questions focused on the requirement of liability insurance and the agency that will develop the competency test for obtaining the license. Luckingbill responded to the question on liability, noting that her research had shown only a \$10 increase in annual premium to include the liability. **Brown** stated that the Kansas University School of Medicine would create the competency test in accordance with the required education topics.

An additional question from **DAB Members** was how fees were determined to which **Brown** said it was developed to support time involved by time to process the license.

Johnson (Dennis) moved to follow the staff recommendations for revision of the ordinance.

Action: Board recommended by a vote of 8:0 to support revision of Chapter 3.56 of the City Code pertaining to licensing Massage Therapy.

Board Agenda

Updates, Issues, and Reports

Council Member Martz introduced the newest District V Advisory Board Member, Steve Winslow, and welcomed him to the Board. The Council Member then spoke about his decision to make no public statement in the recent controversy regarding two City officials accused of mishandling public funds. He said that he supported waiting on a decision until the city's investigation was completed, as he believed in "innocent until proved guilty." He also said that he had been out of town for a critical meeting in which the Council discussed some details and the direction to take. Council Member Martz stated that he knew the media to be incorrect on a number of issues recently reported. He also said that while he did not condone excessive spending, he wanted the proper action to be taken and corrections in procedures to be made within the City organization. He said this is an opportunity to correct & improve procedures as well as take appropriate action, if violations had occurred. Council Member Martz stated that he is very supportive of City Manager, Chris Cherches, speaking of his outstanding leadership in Wichita and the partnering skills he has utilized with private business and the influence he has demonstrated in legislative issues at both state and federal levels. One example provided was the recent \$1 million grant approved for the Wichita Trade Center in which Cherches worked with Senator Sam Brownback. Council Member Martz added that the City Manager is an outstanding person to work with as a city council member. He spoke about the City's Council-Mayor form of government, noting that the Mayor's role on the Council is to chair the meetings and attend City functions as a representative of the Council.

Johnson stated that he supported Council Member Martz' comments. **Sullivan** said that these situations have presented opportunities for improvement in the City's policies, procedures, and processes. **Bulman** asked what was accomplished through the action taken with the two city officials and the review of their actions to which **Council Member Martz** said that the City Council would probably be taking a more active role in city processes.

Council Member Martz then asked if members had any issues or reports. **Dennis** reported that an earlier Public Works proposal to DAB V to construct sanitary sewer in the Socora Street neighborhood had been reported to cost much less than originally estimated. The improvement project had generated much controversy among the residents and the Board had deliberated the recommended action in at least two meetings, seeking accurate information.

Action: No action required.

With no further business, the meeting was adjourned at approximately 9:00 p.m.

The next meeting for District Advisory Board V is scheduled for November 3, 2003. The meeting will be at Auburn Hills Clubhouse at 7:00 p.m.

Respectfully Submitted,

Dana Brown, Neighborhood Assistant
City Council District V

Guests

Terry Smythe	Baughman Engineering
Rob Hartman	Professional Engineering Consultants
Nelva Eastman	1458 NW Parkway, 67212
Marlene Church	800 Murray, 67212
Alicia Dale	10549 N. Rita, 67209
Paula Anderson	224 N. Young, 67212
Michele Sturgeon	2016 N. Shefford, 67212
Betty Ludwig	406 N. Jaax St., 67235
Clete Dold	218 S. Breezy Pt. Circle